



MEMORANDUM

To: PLANNING COMMISSION

Date: November 14, 2006

From: COMMUNITY DEVELOPMENT DEPARTMENT

**Subject: ZONING AMENDMENT, ZA-06-03: CITY OF MORGAN HILL-LIGHT
COMMERCIAL RESIDENTIAL ZONING DISTRICT.**

REQUEST

A request for approval of an amendment to Chapter 18.04 Definitions and the addition of Chapter 18.23 CL-R, Light Commercial Residential district to the Morgan Hill Municipal Code. Also, requested is the amendment of the zoning designation on 57 parcels from General Commercial CG, to Light Commercial Residential CL-R, and 7 parcels from Administrative Office CO, to Light Commercial Residential district, CL-R.

RECOMMENDATION

Environmental Assessment: Actions were reviewed as part of Master Environmental Impact Report for the 2001 General Plan update.

Application ZA-06-03 Recommend City Council approval, of the proposed Light Commercial Residential zoning text as shown in Exhibit A of the attached resolution.

Recommend City Council approval of the proposed amendments to the zoning definitions Chapter of the Municipal Code as shown in Exhibit A of the attached resolution.

Recommend City Council approval of the proposed zoning map amendments as shown Exhibits A & B of the attached resolution.

BACKGROUND

In July of 2001, the City of Morgan Hill adopted a new General Plan Land Use Element which contained a new land use designation titled Non-Retail Commercial. The General Plan Land Use map (see attached) applied the Non-Retail Commercial designation to properties on the east and west sides of Monterey Rd. south of Bisceglia Ave. and north of West Edmundson Ave., and on the east and west sides of Monterey Rd. in the area north of Central Ave. and south of the Railroad over crossing.

The following paragraph from the General Plan Land Use Element describes the Non-Retail Commercial land use designation:

Non-Retail Commercial. This designation applies to 36 acres (*) along Monterey Road between Llagas Road and Tennant Avenue. The Non-Retail Commercial designation is intended to focus service and office uses away from major intersections where the Commercial designation encourages higher traffic generating retail uses. It also accommodates mixed-use development (residences above shops) to help create a market for local stores and neighborhood atmosphere in the downtown.

* Note that the actual acreage designated Non-Retail Commercial on the General Plan Land Use map totals 43 acres.

Since 2001, the Planning Division has not accepted applications for retail uses on parcels within this portion of Monterey Rd. The lack of clarity for what is and is not allowed has been identified as an Economic Inhibitor.

The Commission first reviewed the proposed text at the July 25, 2006 meeting. The Commission requested a workshop to receive additional input from the property owners affected by the proposed zoning amendment. A workshop was held on October 10 where the Commission listened to the property owner's concerns regarding the proposed zoning text. The majority of the speakers disagreed with the elimination of retail uses. One speaker suggested that a percentage of a building be allowed to contain retail as a permitted use or as a conditional use with a modified use permit process approvable by the Community Development Director. No specific comments were made about the proposed text other than the Commission's consensus that name "Restricted Retail Commercial" seemed too negative. As an alternative staff is proposing a new title called "Light Commercial-Residential."

PROJECT ASSESSMENT

Zoning Text: The Non-Retail Commercial land use designation is a new land use designation which has yet to be defined by a corresponding zoning classification within the City's Municipal Code. Staff has drafted a new Section titled CL-R, Light Commercial-Residential district to be inserted within Chapter 18 Zoning, of the Morgan Hill Municipal Code. The purpose of the new section is to define the uses and development standards for the Non Retail Commercial land use designation. In drafting the new zoning text, it has been staff's goal to create a zoning text that is clear, flexible and

reflective of the Non Retail Land Use definition in the General Plan. The following is a list of the permitted and conditional uses proposed for the CL-R zoning.

Proposed permitted uses are as follows:	Proposed conditional uses are as follows:
<ol style="list-style-type: none"> 1. Arts and crafts gallery 2. Antiques/vintage goods and collectables store 3. Business support services 4. Catering services 5. Commercial indoor recreation 3000 sq. ft. or less. 6. Commercial services 7. Daycare, medium or small 8. Financial service 9. Medical/Dental clinic and office 10. Office, administrative 11. Office, professional 12. Personal service 13. Pet grooming 14. Public facilities 15. Restaurant, fast food with no drive-thru component 16. Restaurant, sit-down 17. Retail, extensive 18. School, business, trade, or tutoring 19. Social services 20. Residential use in a mixed use development 	<ol style="list-style-type: none"> 1. Club, lodge or private meeting hall. 2. Commercial Recreation (indoor) 3001 sq. ft. or greater. 3. Commercial Recreation (outdoor) any size. 4. Convenience market 5. Daycare center for adults or children 6. Emergency shelter/transitional housing facility 7. Funeral facility and services 8. Kennel 9. Lodging facilities 10. Mini storage 11. Motor vehicle repair (minor) 12. Quasi-public use 13. Restaurant, fast food with drive thru component 14. Theaters 15. Veterinary clinic or hospital 16. Any permitted or conditional uses which have an outdoor display or storage component. 17. Any other use which the planning commission finds will be similar in nature to the permitted uses and conditional uses specified in this chapter for the CL-R zoning district.

The majority of the "Permitted Uses" proposed are office type uses such as financial services, professional/administrative offices, social services and medical offices. Several of the proposed "Permitted Uses" may have a retail component but primarily the use is service oriented. For example a cell phone store (defined as a Commercial Service) may sell cell phones and accessories, but the primary business is the calling service. A salon (defined as a Personal Service) would provide hair styling services but may also sell hair care products. Some full retail type uses are proposed but have been selected due to their low trip generation rates and due to these type uses being less likely to locate in a regional or community shopping center. For example, an antique store or a gallery would be retail uses but they do not generate the same traffic as a chain retail store or a retailer who markets a variety of high demand, mass produced retail goods. Low trip generation rates also apply to the proposed Extensive Retail uses such as furniture stores, appliances stores and flooring stores. Extensive Retail uses typically deal in bulky items and are a type of retail use that is sought out by consumers on an infrequent basis. Restaurant and fast food uses have high trip generation rates but have been added to the list of permitted uses because they are supportive of the residential component of the Non Retail Commercial land Use designation, and there are a good number of existing restaurant and fast food uses located in the subject area. With the exception the restaurant and fast

food uses, the proposed “Permitted Uses” for the Light Commercial Residential district zoning are ones which are less dependent or desirous of locating in regional or commercial shopping centers.

The majority of the Non-Retail Commercial land use parcels back to existing residential areas. The Non-Retail Commercial land use definition also allows for residential uses to be constructed as “Mixed Use” projects. Uses proposed as “Conditional Uses” are uses that have components that may have the potential to impact adjacent uses. For example, a veterinary hospital may have an outdoor kennel area that may create noise concerns. An outdoor recreation use may have lighting impacts and funeral homes and lodges may have large parking demands or operational characteristics that should be reviewed and conditioned to ensure compatibility of land uses.

As previously mentioned, the Non-Retail Commercial land use designation allows for residential units to be constructed as part of a “Mixed Use” project. The General Plan however does not specify a density for the residential component. The residential density proposed for the CL-R zoning district is 8-18 dwelling units per acre. This density is the same as the “Mixed Use” density currently applied to the downtown CC-R zoning district. If densities are increased in the downtown, the CL-R zoning district currently proposed on the north and south sides of the downtown area will provide a feathering effect for the densities of the two adjacent “Mixed Use” zoning districts. The residential standards within the proposed text includes the density standard of one dwelling unit per 2,400 sq. ft. and a restriction that requires residential development to be allowed only as part of Mixed Use development, which also requires the approval of a PUD.

The General Plan’s description of Non-Retail Commercial includes the example of “(residences above shops)” for mixed use development which might suggest vertical mixed use development. However, the depth (200 ft.+) of some of the Non-Retail Commercial properties warrants consideration of both horizontal and vertical mixed use development through the PUD process. The PUD process would allow the City to consider appropriate layouts for individual properties.

The Non-Retail Commercial land use designation as defined within the General Plan includes site development standards for minimum lot area (6,000 sq. ft.), maximum building coverage (50%) and maximum building height (35 ft.). A deviation to the maximum building height is proposed within the CL-R zoning text, which would allow up to 45 ft. if the extra 10 ft. is devoted to a roof element. This same deviation was included in the CC-R zoning standards and was later clarified with the General Plan document. The proposed CL-R setback standards have been fashioned after the CC-R zoning district with the exception of the front setback requirement. The CC-R zoning district allows for a 0 ft. front setback. The proposed CL-R zoning requires a 15 ft. front setback which will provide a subtle transition from the 0 ft. setbacks in the downtown. To mitigate potential impacts to adjacent residential development, the proposed CL-R site development standards require the installation of a six foot wall or fence and a 10 ft. wide landscape buffer adjacent. The proposed buffer would require parking areas and drive aisles to be located further from adjacent residential uses.

Prior to completing the proposed draft ordinance, two workshops were held with property owners who have parcels designated as Non-Retail Commercial by the 2001 General Plan. The primary concern expressed by the property owners at the workshop was the loss of retail uses from what the General Commercial district allows. Currently, 57 of the 64 affected properties had Commercial land use designations and General Commercial zoning. The owners felt that the elimination of the retail uses was an economic inhibitor and placed their property at a significant disadvantage to other

commercial properties. Many property owners believe that the elimination of the retail uses currently allowed by the General Commercial zoning de-values their properties because they will not be able to compete with other General Commercial properties that allow all of the same uses proposed in the CL-R zoning plus all other retail uses. Several owners suggested that the General Commercial zoning text be modified to eliminate offices and personal services from the CG zoning as a way to carry out the General Plan goal of concentrating retail at major intersections and increasing the pool of potential tenants for building owners within the CL-R zoning district. Some of the property owners recognized that the ability to develop residential units (which is not allowed in the CG district) was an enhancement to their property value.

The owners of the previously designated Office Commercial properties saw the proposed CL-R zoning as a positive since it significantly increased the potential uses, but also agreed that the elimination of retail uses creates a disadvantage for attracting potential tenants.

Some property owners suggested that the non-retail commercial lands use designation should be removed and no new zoning district created (i.e. leave General Commercial). Other property owners suggested that the proposed CL-R zoning allow for a certain percentage (25%-50%) of a building to have retail uses. This could be implemented by adding as a permitted use, "Retail, not to exceed 25 percent of the square footage of a structure". Another suggestion was to allow retail uses with the approval of an administrative use permit.

A letter from the owner of the existing Johnson's Funeral Home (attached) was submitted to the City requesting that funeral homes be allowed as a permitted use rather than a conditional use under the proposed CL-R zoning. Currently the Johnson's Funeral Home is an existing legal non conforming land use that cannot be expanded under the current General Commercial CG, zoning designation because the current CG zoning does not allow funeral homes as a permitted or conditional use. The proposed CL-R text would conditionally permit funeral homes thus providing an avenue for possible future expansion through the conditional use permit process. The need to obtain a conditional use permit would only be triggered by a proposal to expand or intensify the existing funeral home. As mentioned earlier in the report, funeral homes are proposed as a conditional uses because there could be components that might have the potential to impact adjacent uses. For example, funeral homes may have large parking demands or operational characteristics that should be reviewed and conditioned to ensure compatibility of land uses.

Zoning Definitions: Chapter 18.04 of the Municipal Code currently contains definitions of land uses listed within the Zoning Chapter. As part of drafting the text for the CL-R zoning district, staff saw a need to add new definitions and amend existing definitions to provide clarity for the permitted and conditional uses listed within the zoning text. For example, the zoning definitions section as currently written did not include definitions for Commercial Services, Business Support Services, Lodging Facilities, Mixed Use, Funeral Homes and Kennels. Several existing definitions are recommended for modification to provide additional clarification of the anticipated uses. For example, the Commercial Recreation definition has been split to define Indoor and Outdoor Commercial Recreation separately. The current definition for Professional Offices included doctors so it was not distinguishable from the Medical Office definition. New and more concise definitions are proposed as part of Exhibit A of Zoning Definition Resolution. Definitions to be eliminated are shown in ~~strike-out~~ text, new definitions or modified text within existing definitions is shown in highlighted text and recently approved definitions and amendments are shown in bold text.

Zoning Map Amendment:

State law requires that the City's zoning designation on a property be consistent with its General Plan. Along with creating the CL-R zoning classification, the zoning designation on properties designated as Non-Retail Commercial by the General Plan are proposed to be amended to be consistent with the adopted General Plan land use diagram. The zoning map amendments shown on Exhibits A & B of the Zoning Map resolution are same properties currently designated as Non-Retail Commercial in the General Plan.

CONCLUSION

It is recommended that that Commission review and recommend City Council approval of the proposed Light Commercial-Residential zoning text which is necessary to implement the Non-Retail Commercial land use designation within the 2001 General Plan. It is also recommended that the Commission review and recommend Council approval of new and revised zoning text definitions which are intended to added clarification to the permitted and conditional uses listed within the various zoning districts. Zoning map amendment is also recommended to bring the zoning designation on the 64 properties into compliance with the 2001 General Plan Land Use Map.

Attachments

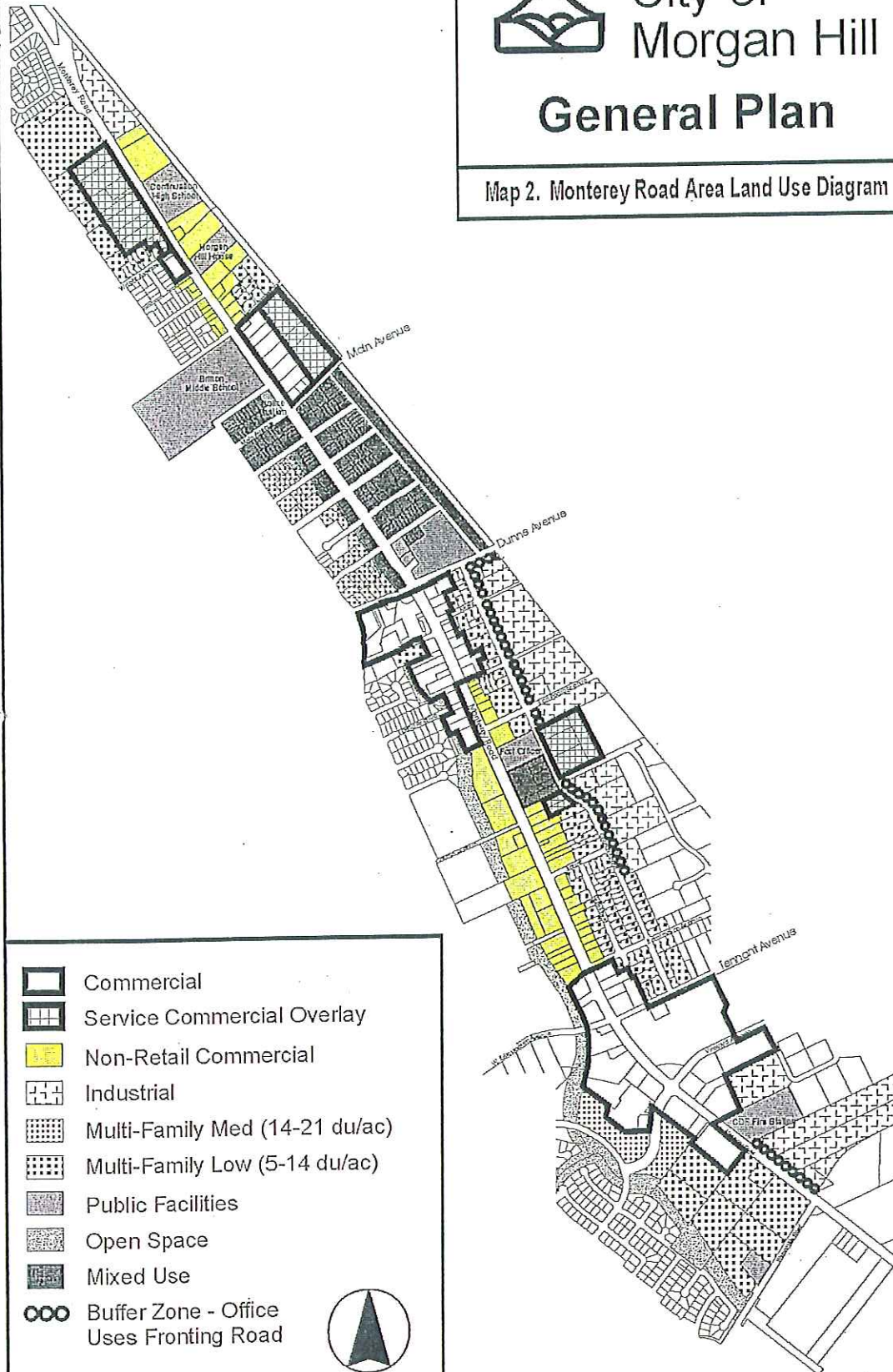
1. General Plan Land Use map.
2. Letters from property owners.
3. General Commercial Zoning Text.
4. Administrative Office Zoning Text.
5. Resolution recommending approval of CL-R zoning text.
6. Resolution recommending approval of new and modified zoning definitions
7. Resolution recommending approval of zoning map amendments.



City of
Morgan Hill

General Plan

Map 2. Monterey Road Area Land Use Diagram



Chapter 18.22

CG GENERAL COMMERCIAL DISTRICT

Sections:

- 18.22.010 Purpose of district.
- 18.22.020 Permitted uses.
- 18.22.030 Conditional uses.
- 18.22.040 Site development standards.
- 18.22.050 Additional required conditions.

18.22.010 Purpose of district.

The CG general commercial district is intended to create and maintain major commercial areas accommodating a broad range of office, retail sales and other commercial activities of community-wide significance. The CG district is intended to be applied to community commercial areas identified by the Morgan Hill General Plan and other areas where deemed appropriate. (Ord. 559 N.S. § A (part), 1981)

18.22.020 Permitted uses.

The following uses shall be permitted in the CG general commercial district:

- A. Retail stores;
- B. Restaurants;
- C. Offices and professional offices;
- D. Financial services;
- E. Personal services;
- F. Day care centers and nursery schools;
- G. Commercial recreation uses 3,000 sq. ft. or less in area (exclusive of parking). (Ord. 1215 N.S. § 24, 1995; Ord. 980 N.S. § 3 (part), 1990; Ord. 559 N.S. § A (part), 1981)

18.22.030 Conditional uses.

The following uses may be conditionally allowed in the CG general commercial district, subject to issuance of a conditional use permit in accordance with Chapter 18.54:

- A. Commercial recreation;
- B. Convenience markets;
- C. Service stations;
- D. Ambulance services;
- E. Utility facilities, excluding construction of storage yards, maintenance facilities, or corporation yards;
- F. Motels, hotels and similar lodging facilities;

- G. Mini-storage facilities;
- H. Drive-in establishments;
- I. Wholesale business;
- J. Caretaker units;
- K. Off-site pole or pylon freeway-oriented signs pursuant to Section 18.76.270.C.4. and 18.76.075;
- L. Minor motor vehicle repair;
- M. Any other use which the planning commission finds to be of a similar nature to the permitted uses and conditional uses specified in this chapter for the CG zoning district. (Ord. 1307 N.S. § 4, 1996; Ord. 1135 N.S. § 31, 1993; Ord. 1134 N.S. § 2, 1993; Ord. 1055 N.S. § C (part), 1991; Ord. 980 N.S. § 3 (part), 1990; Ord. 846 N.S. § 1 (part), 1987; Ord. 839 N.S. § 1 (part), 1987; Ord. N.S. 559 § A (part), 1981)

18.22.040 Site development standards.

The following site development standards shall apply in the CG general commercial district:

- A. Minimum lot area, ten thousand square feet;
- B. Minimum lot width, one hundred feet;
- C. Minimum lot depth, one hundred feet;
- D. Maximum building coverage, fifty percent;
- E. Minimum setbacks:
 - 1. Front, twenty-five feet,
 - 2. Rear, twenty feet,
 - 3. Side, zero feet;
- F. Maximum height, three stories or thirty-five feet;
- G. On any portion of a site in the CG district which abuts a lot in any residential zoning district, a minimum interior yard of ten feet shall be required, and a solid wall or fence of six feet in height shall be constructed and maintained along the common lot line. The minimum interior yard shall be planted and maintained as a landscaped screen;
- H. All uses, whether permitted or conditional, shall be conducted in such a manner so as to avoid any nuisance, hazard or commonly recognized offensive condition or characteristic, as established by the commercial and industrial performance standards of Chapter 18.48 of this title;
- I. Side Street Side Yard. A side yard along the side street lot line of a corner lot shall have a width of not less than fifteen feet or one-half the required depth of the front yard, whichever is greater;
- J. Cul-de-sac lot width, minimum of forty feet as measured along the front property line. (Ord. 1055 N.S. § C (part), 1991; Ord. 899 N.S. §§ 6 (part), 22 (part), 1989; Ord. 559 N.S. § A (part), 1981)

18.22.050 Additional required conditions.

- A. Architectural and site review board approval shall be required of all uses situated on sensitive sites, as defined in Chapter 18.74 of this title.

B. Where any lot in the general commercial district abuts residentially zoned property, a twenty-five-foot minimum building setback shall apply. (Ord. 1495 N.S. § 11; Ord. 1415 N.S. § 19, 1998; Ord. 1111 N.S. § 13, 1992; Ord. 559 N.S. § A (part), 1981)

Chapter 18.34

CO ADMINISTRATIVE OFFICE DISTRICT

Sections:

- 18.34.010 Purpose of district.
- 18.34.020 Permitted uses.
- 18.34.030 Conditional uses.
- 18.34.040 Site development standards.
- 18.34.050 Additional required conditions.

18.34.010 Purpose of district.

The CO administrative office district is intended to provide an area wherein professional, general commercial offices and limited personal services may develop in close relationship with each other outside of other commercial districts. Nothing in this chapter shall be construed to permit or encourage retail sales except as provided in this chapter. (Ord. 559 N.S. § A (part), 1981)

18.34.020 Permitted uses.

The following uses shall be permitted in the CO administrative office district:

- A. Computer and data processing services;
- B. Consumer credit reporting agencies;
- C. Detective and protective services;
- D. Educational services;
- E. Financial, insurance and real estate services;
- F. General offices for business and manufacturing firms;
- G. Health services, exclusive of hospitals;
- H. Legal services;
- I. Mailing, reproduction, commercial art, photography and stenographic services;
- J. Management, consulting and public relations services;
- K. Microfilm recording and developing services;
- L. Miscellaneous services;
- M. Personnel supply services;
- N. Photo finishing laboratories;
- O. Social services, except residential care;
- P. Travel agencies. (Ord. 559 N.S. § A (part), 1981)

18.34.030 Conditional uses.

The following uses may be conditionally allowed in the CO administrative office district, subject to issuance of a conditional use permit in accordance with Chapter 18.54 of this title:

- A. Commercial recreation;
- B. Hospitals;

- C. Drive-in establishments;
- D. Any other use which the planning commission finds will be similar in nature to the permitted uses and conditional uses specified in this chapter for the CO zoning district. (Ord. 1215 N.S. § 31, 1995; Ord. 1055 N.S. § C (part), 1991; Ord. 846 N.S. § 1 (part), 1987; Ord. 559 N.S. § A (part), 1981)

18.34.040 Site development standards.

A. The following site development standards shall apply in the CO administrative office district:

- 1. Minimum lot area, six thousand square feet;
- 2. Minimum lot width, sixty feet;
- 3. Minimum lot depth, one hundred feet;
- 4. Maximum building coverage, fifty percent;
- 5. Minimum setbacks:
 - a. Front, twenty feet,
 - b. Rear, twenty feet,
 - c. Side, ten feet;
- 6. Maximum height, three stories or thirty-five feet.

B. On any portion of a site in the CO district which abuts a lot in any residential zoning district, a solid wall or fence of six feet in height shall be constructed and maintained along the common lot line. The minimum interior yard shall be planted and maintained as a landscaped screen.

C. All uses, whether permitted or conditional, shall be conducted in such a manner so as to avoid any nuisance, hazard or commonly recognized offensive condition or characteristic, as established by the performance standards of Chapter 18.48 of this title.

D. Side Street Side Yard. A side yard along the side street lot line of a corner lot shall have a width of not less than fifteen feet or one-half the required depth of the front yard, whichever is greater.

E. Cul-de-sac lot width, minimum of forty feet as measured along the front property line. (Ord. 899 N.S. §§ 6 (part), 22 (part), 1989; Ord. 559 N.S. § A (part), 1981)

18.34.050 Additional required conditions.

A. Architectural and site review board approval shall be required of all uses situated on sensitive sites, as defined in Chapter 18.74 of this title.

B. Where any lot in the administrative office district abuts residentially zoned property, a twenty-five-foot minimum setback shall apply. (Ord. 1495 N.S. § 18, 2001; Ord. 1111 N.S. § 21, 1992; Ord. 559 N.S. § A (part), 1981)



Ed Johnson

PLANNING DEPT.

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06/15/2006

Kathy Molloy Previsich
Planning Director
City of Morgan Hill, Ca.

Dear Planning Director:

Regarding the proposed change in zoning for APM 726-24-013, 014 , I generally approve of the concept and I thank you for our phone conversation regarding the placing of the funeral home in a permitted use since the funeral home has been in use since 1935. Also it is a very low retail business, not like others mentioned in my copy. It also seams to fit very nicely in the mix as none of the new business that came after seem to mind. So at this time, I am requesting that it be placed as a permitted use. If you have any questions or comments and if I can be of help, please call or write.

Thank you for your time regarding this matter,

Respectfully,

E. P. Johnson, Jr.
Co-Owner

Copy Sent to
Ruth A. Johnson
Co-Owner
Morgan Hill, Ca.